

2009R00124  
JA/dc

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

*Plaintiff,*

v.

MICHAEL J. MCGRATH

*Defendant.*

Honorable Katharine S. Hayden, U.S.D.J.

Criminal No. 09-436

FINAL ORDER OF FORFEITURE

**WHEREAS**, on June 11, 2009, the United States filed an Information in this case against Michael J. McGrath, Jr. ("Defendant") charging him with conspiracies to commit mail and wire fraud in violation of 18 U.S.C. § 1349, and to commit money laundering, in violation of 18 U.S.C. § 1956(h); and

**WHEREAS**, on June 11, 2009, the United States and Defendant entered into a Plea Agreement whereby Defendant agreed to the forfeiture of the contents of the bank and brokerage accounts that were subject to seizure warrants previously executed by the United States, and his interest, if any, in the real property known as 307-313 Newark Street, Hoboken, New Jersey; and

**WHEREAS**, on February 24, 2011, a Consent Judgment and Preliminary Order of Forfeiture was entered between the United States and Defendant pursuant to the terms of the plea agreement under which he agreed, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), and 18 U.S.C. § 982, to the forfeiture of the following property:

- a. The contents of TD Bank account number 037720376, held in the name of Defendant and Susan C. McGrath ("his wife");
- b. The contents of TD Bank account number 7865781244, held in the name of EvenFlow Funding, LLC;
- c. The contents of TD Ameritrade, Inc. account number 181-019118, held in the name of Defendant and his wife;
- d. The contents of Newbridge Securities Corporation account number 7696-3204, held in the name of Defendant and his wife;
- e. The contents of J.P. Turner and Co. account number 76017813, held in the name of EvenFlow Funding, LLC.;
- f. The contents of J.P Turner and Co. account number JPK012890, held in the name of Defendant and his wife;
- g. The contents of J.P. Turner and Co. account number JPK727644, held in the name of Defendant;
- h. The contents of Texas Capital Bank account number 1116000569, held in the name of EvenFlow Funding, LLC;
- i. The contents of Capital One Bank account number 3394002830, held in the name of U.S. Mortgage Corp.;
- j. The real property known as 307-313 Newark Street, Hoboken, New Jersey, held in the name of Hoboken Parking SPE 1, LLC;

k. All funds not specifically identified above that Defendant has caused to be transferred to the U.S. Marshals Service;

l. A sum of money equal to approximately \$139,648,807.70 in United States currency, representing the amount of proceeds obtained as a result of the offense(s) (paragraphs (a)-(l) collectively describing the "Property"); and

**WHEREAS**, pursuant to 21 U.S.C. § 853(n)(1) as incorporated through 28 U.S.C. § 2461(c), a Notice of Forfeiture with respect to the Property was posted on an official government internet site, namely [www.forfeiture.gov](http://www.forfeiture.gov), beginning on March 14, 2011, and running for thirty consecutive days through April 12, 2011 (See Declaration of Desiree L. Chirco of Publication at Exhibit A); and

**WHEREAS**, on or about April 12, 2011, Texas Capital Bank, NA filed a Claim to Certain Assets Subject to Forfeiture whereby they made a claim to certain funds in Texas Capital Bank account number 1116000569, held in the name of EvenFlow Funding, LLC; and

**WHEREAS**, the United States and Texas Capital Bank, NA have reached a Stipulation of Settlement to resolve Texas Capital's claim; and

**WHEREAS**, the victims have approved the above-mentioned settlement between the United States and Texas Capital Bank; and



**WHEREAS**, pursuant to the Stipulation of Settlement, Texas Capital Bank has discharged its obligation and wire transferred \$1,506,133.78 to the United States Marshals Service for deposit into the Department of Justice Asset Forfeiture Fund with reference to Criminal Case No. 09-436(KSH); and

**WHEREAS**, no other claims have been filed on the Property within the time permitted; and

**WHEREAS**, if by any act or omission of the Defendant, any property subject to forfeiture:

- (A) cannot be located upon the exercise of due diligence;
- (B) has been transferred or sold to, or deposited with, a third party;
- (C) has been placed beyond the jurisdiction of the court;
- (D) has been substantially diminished in value; or
- (E) has been commingled with other property which cannot be divided without difficulty,

it is the intent of the United States to seek forfeiture of any other property of the defendant up to the value of the remaining balance resulting from the difference between the money judgment and the value of specified forfeited property above, subject to forfeiture pursuant to 21 U.S.C. § 853(p), as incorporated by 28 U.S.C. § 2461(c) and 18 U.S.C. § 982; and

**WHEREAS**, the United States has not, as of this date, identified any other property that represents the amount of proceeds obtained as a result of the

offenses of Defendant, or involved in his offenses, that could be forfeited as a substitute property in accordance with 21 U.S.C. § 853(p); and

**WHEREAS**, Rule 32.2(c)(1) provides that no ancillary proceeding is required to the extent that the forfeiture consists of a money judgment; and

**WHEREAS** good and sufficient cause has been shown,

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:**

**THAT** a Final Order of Forfeiture is entered against the following property:

- a. The contents of TD Bank account number 037720376, held in the name of Defendant and Susan C. McGrath ("his wife");
- b. The contents of TD Bank account number 7865781244, held in the name of EvenFlow Funding, LLC;
- c. The contents of TD Ameritrade, Inc. account number 181-019118, held in the name of Defendant and his wife;
- d. The contents of Newbridge Securities Corporation account number 7696-3204, held in the name of Defendant and his wife;
- e. The contents of J.P. Turner and Co. account number 76017813, held in the name of EvenFlow Funding, LLC.;
- f. The contents of J.P. Turner and Co. account number JPK012890, held in the name of Defendant and his wife;
- g. The contents of J.P. Turner and Co. account number JPK727644,

held in the name of Defendant;

h. \$1,506,133.78 from Texas Capital Bank account number 1116000569, held in the name of EvenFlow Funding, LLC, which has been transferred to the United States Marshals Service;

i. The contents of Capital One Bank account number 3394002830, held in the name of U.S. Mortgage Corp.;

j. The real property known as 307-313 Newark Street, Hoboken, New Jersey, held in the name of Hoboken Parking SPE 1, LLC;

k. All funds not specifically identified above that Defendant has caused to be transferred to the U.S. Marshals Service;

l. A sum of money equal to approximately \$139,648,807.70 in United States currency, representing the amount of proceeds obtained as a result of the offense(s) (paragraphs (a)-(l) collectively describing the "Property"), and no right, title or interest in the Property shall exist in any other party; and

**THAT** any and all forfeited funds, including but not limited to currency, currency equivalents, and certificates of deposits, as well as any income derived as a result of the United States Marshals Service's management of any property forfeited herein, after the payment of costs and expenses incurred in connection with the forfeiture and disposition of the forfeited property, shall be deposited forthwith by the United States Marshals Service into the Department of Justice Asset Forfeiture Fund, in accordance with the law; and



**IT IS FURTHER ORDERED** that the United States District Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e); and

**IT IS FURTHER ORDERED** that pursuant to Rule 32.2(b)(4)(A), this Order of Forfeiture shall become final as to the Defendant at the time of sentencing, or before sentencing if the defendant consents, and shall be made part of the sentence and included in the judgment; and

**IT IS FURTHER ORDERED** that the United States may move at any time pursuant to Rule 32.2(e) and 21 U.S.C. § 853(p) to amend this Order of Forfeiture to include substitute property having a value not to exceed the value of the remaining balance resulting from the difference between the \$139,648,807.70 money judgment and the value of the specified forfeited property above to satisfy the remaining balance on the forfeiture money judgment.

The Clerk is hereby directed to send copies to all counsel of record.

**ORDERED** this 25<sup>th</sup> day of August, 2011.

/s/ Katharine S. Hayden  
KATHARINE S. HAYDEN  
United States District Judge